

AMENDED IN ASSEMBLY JUNE 20, 2007

AMENDED IN ASSEMBLY APRIL 19, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

Assembly Constitutional Amendment

No. 1

Introduced by Assembly Members Price and Nunez

December 4, 2006

Assembly Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing and adding Article XXI thereof, relating to redistricting.

LEGISLATIVE COUNSEL'S DIGEST

ACA 1, as amended, Price. Elections: redistricting.

The California Constitution requires the Legislature, in the year following the year in which the federal census is taken at the beginning of each decade, to adjust the boundary lines of the Senate, Assembly, congressional, and State Board of Equalization districts in accordance with specified standards.

This measure would assign the responsibility for adjusting boundary lines of Senate, Assembly, congressional, and State Board of Equalization districts to a commission that, *subject to specified conditions*, consists of *11 members, including* the 9 public members of the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, ~~subject to specified conditions~~ *and 2 additional persons appointed by those 9 members*. It would require the Legislature to establish, by statute, procedures to ensure compliance with specified requirements for membership on the commission.

This measure would require the commission to hold public hearings to provide for public input and comment.

This measure would grant the Supreme Court original and exclusive jurisdiction over all challenges to a final redistricting plan adopted by the commission and would authorize an affected elector to file a petition for a writ of mandate or *writ of prohibition* within 45 days after the commission certifies the final redistricting plan for Senate, Assembly, congressional, and State Board of Equalization districts to the Secretary of State. If the final redistricting plan is held by the court to violate the California Constitution, the United States Constitution, or federal law, this measure would require the court to provide relief as it deems appropriate.

This measure would require the Governor, in ~~2010, and annually thereafter~~ *each year ending in the number zero*, to include in the Governor's Budget submitted to the Legislature an amount of funding sufficient to meet the estimated operating expenses *through June 30 of the next following year ending in the number 2* of the redistricting process, and would require that the necessary appropriation be made in the annual Budget Act. It would provide that commissioners are eligible for reimbursement of expenses pursuant to law.

This measure would provide a procedure to correct errors if any census tract or census block is omitted, listed more than once, not provided for, or only partially provided for, in the final redistricting plan.

This measure would also specify that, in the event that this measure and another measure or measures relating to the redistricting of Senate, Assembly, congressional, or State Board of Equalization districts are approved by a majority of the voters at the same election and this measure receives a greater number of affirmative votes than the other measure or measures, this measure would control in its entirety and the other measure or measures would be rendered void and without any legal effect. It would specify that if this measure is approved by a majority of the voters, but does not receive a greater number of affirmative votes than the other measure or measures, this measure shall take effect to the extent permitted by law.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2007–08 Regular
- 3 Session commencing on the fourth day of December 2006,

1 two-thirds of the membership of each house concurring, hereby
2 proposes to the people of the State of California, that the
3 Constitution of the State be amended as follows:

4 First—That Article XXI thereof is repealed.

5 Second—That Article XXI is added thereto, to read:

6
7 ARTICLE XXI

8 Reapportionment of Senate, Assembly, Congressional, and State
9 Board of Equalization Districts

10
11 SECTION 1. (a) In the year following the year in which the
12 national census is taken under the direction of the Congress at the
13 beginning of each decade, the boundary lines of the Senate,
14 Assembly, congressional, and State Board of Equalization districts
15 shall be adjusted by a commission, as established pursuant to
16 Section 2, and in conformance with this article.

17 (b) A redistricting plan that has been certified to the Secretary
18 of State pursuant to subdivision (c) of Section 3 shall not be
19 superseded by another plan until after the next national census at
20 the beginning of the next decade, unless a court requires the State
21 to conduct a subsequent redistricting in order to comply with the
22 United States Constitution or this Constitution, or to enforce the
23 Voting Rights Act of 1965 (42 U.S.C. Sec. 1973 and following).

24 (c) *For purposes of this article, “day” means a calendar day,*
25 *except that if the final day of a period within which an act is to be*
26 *performed is a Saturday, Sunday, or holiday, the period is extended*
27 *to the next day that is not a Saturday, Sunday, or holiday.*

28 SEC. 2. (a) Subject to subdivisions (b) to (f), inclusive, the
29 commission shall consist of 11 members as follows:

30 (1) The nine persons who, as of January 1 of the year following
31 the year in which the national census is taken under the direction
32 of Congress at the beginning of each decade, are the public
33 members of the Milton Marks “Little Hoover” Commission on
34 California State Government Organization and Economy (*hereafter*
35 *the Little Hoover Commission*), as appointed pursuant to Section
36 8501 of the Government Code as that statute ~~read on January 1,~~
37 ~~2007, shall constitute the commission specified in Section 1~~
38 ~~(hereafter “the commission”): read on January 1, 2007.~~

39 (2) *Two persons, who are not registered with either of the two*
40 *largest political parties in the State based on statewide voter*

1 *registration, shall be selected by the nine members specified in*
2 *paragraph (1). Each selection shall be made by seven or more*
3 *affirmative votes.*

4 (b) All of the following shall apply to the commission:

5 (1) The commission shall be representative of this State's
6 diversity, including, but not limited to, racial, ethnic, geographic,
7 and gender diversity. No more than two commission members
8 may reside in the same county.

9 (2) Each commission member shall be registered to vote in this
10 State, and shall have been continuously registered with the same
11 political party, or been registered as unaffiliated with a political
12 party, for three or more years immediately preceding his or her
13 appointment.

14 (3) Each commission member shall commit to applying this
15 article in an honest, independent, and impartial fashion and to
16 upholding public confidence in the integrity of the redistricting
17 process.

18 ~~(e) Not more than four of the commission members shall be~~
19 ~~registered as members of the same political party. At least one of~~
20 ~~the Governor's appointments shall be a person who is not registered~~
21 ~~with either of the two largest political parties in the State.~~

22 (c) *The nine members of the commission specified in paragraph*
23 *(1) of subdivision (a) shall consist of four persons registered with*
24 *the largest political party in the State based on statewide voter*
25 *registration, four persons registered with the second largest*
26 *political party in the State based on statewide voter registration,*
27 *and one person, appointed to the Little Hoover Commission by*
28 *the Governor, who is not registered with either of those two*
29 *political parties.*

30 (d) The Legislature shall establish, by statute, the procedures
31 necessary to provide that nine public members are appointed to
32 ~~the Milton Marks "Little Hoover" Commission on California State~~
33 ~~Government Organization and Economy in a manner that ensures~~
34 *the Little Hoover Commission in a manner that ensures* compliance
35 with subdivisions (b) and (c).

36 (e) A member of the commission shall be ineligible during his
37 or her term of office, or for three years following the adoption by
38 the commission of a final redistricting plan, whichever is of longer
39 duration, to do any of the following:

40 (1) Hold elective public office in this State.

(2) Hold appointive public office for which an elected state official or any officer or entity within the Legislature has appointing authority, and for which economic consideration is provided, other than reimbursement for reasonable expenses.

(3) Register as a lobbyist in this State.

(f) In addition to removal as provided for in subdivision (a) of Section 8501 of the Government Code, as that statute read on January 1, 2007, the Governor may request in writing, or either house of the Legislature may request by resolution, that a member of the commission be removed for substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of his or her office. After having been served written notice of the request for removal and having been provided with an opportunity for a response, a member of the commission may be removed by rollcall vote entered in the journal, two-thirds of the membership of each house of the Legislature concurring. In the event of a removal from the commission or other vacancy, the respective appointing authority shall appoint another person to fill the vacancy subject to the same qualifications and conditions that applied to the appointment of the member who is being replaced.

SEC. 3. (a) In carrying out its duties under this article, the commission is subject to all of the following:

(1) The members of the commission shall, by ~~seven~~ *eight* or more affirmative votes, select one member to serve as the chair and another member to serve as the vice chair. The vice chair shall not be of the same political party as the chair.

(2) ~~Seven~~ *Eight* members of the commission, one of whom may be the chair or vice chair, shall constitute a quorum.

(3) ~~Seven~~ *Eight* or more affirmative votes shall be required for any official action. The ~~seven~~ *eight* or more affirmative votes approving a final map shall include at least three votes of members registered from each of the two largest political parties in the State *based on statewide voter registration*.

(4) The commission shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Division 3 of Title 2 of the Government Code), or its successor statute. The commission shall provide not less than 14 days' public notice for each meeting.

(5) The records of the commission pertaining to redistricting, and all data considered by the commission for the purpose of

1 redistricting, are subject to the California Public Records Act
2 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
3 Title 1 of the Government Code), or its successor statute, and are
4 open to inspection by members of the public upon request as
5 provided by the act.

6 (6) Any written or verbal communication with a commission
7 member outside of a public hearing, other than by staff or by legal
8 counsel, is prohibited as to any matter on which the commission
9 is required to meet pursuant to paragraph (4), except for a written
10 communication for which public disclosure is promptly made
11 pursuant to standards adopted by the commission. This subdivision
12 does not prohibit any communication between commission
13 members that is permitted by the Bagley-Keene Open Meeting
14 Act, or its successor statute, to occur outside of a public hearing.

15 (b) The duties of the commission include all of the following:

16 (1) Hiring or contracting with commission staff, legal counsel,
17 and consultants, as appropriate, to assist the commission in
18 performing its duties pursuant to this article. ~~Staff, legal counsel,~~
19 ~~and consultants hired or contracted with to provide that assistance~~
20 *Any individual hired to provide that assistance shall be exempt*
21 *from the civil service requirements of Article VII. The For*
22 *purposes of this paragraph, the commission shall establish clear*
23 *criteria for the hiring, contracting with, and removal of these*
24 *individuals, communication protocols, hiring and removal and*
25 *contracting, and shall also establish communication protocols and*
26 *a code of conduct. The commission shall make hiring or contracting*
27 *decisions on staff, legal counsel, and consultants by a vote of the*
28 *commission as prescribed by paragraph (3) of subdivision (a) for*
29 *the approval of a final map.*

30 (2) Establishing Senate, Assembly, congressional, and State
31 Board of Equalization districts pursuant to a mapping process for
32 each district based on the following criteria, prioritized according
33 to the following order:

34 (A) Each member of the Senate, Assembly, Congress, and State
35 Board of Equalization shall be elected from a single-member
36 district.

37 (B) District boundary lines shall comply with all requirements
38 of the United States Constitution. Senate, Assembly, congressional,
39 and State Board of Equalization districts shall each have equal

1 population with other districts for the same office, except as
2 otherwise required or permitted by judicial decision.

3 (C) District boundary lines shall comply with the federal Voting
4 Rights Act of 1965 (42 U.S.C. Sec. 1971 and following), as applied
5 by the Supreme Court in *Wilson v. Eu* (1992) 1 Cal.4th 707. For
6 purposes of compliance with that act, voter history and registration
7 and other relevant data may be considered.

8 (D) District boundary lines shall be geographically contiguous.

9 (E) District boundary lines shall respect communities of interest
10 to the extent practicable. "Communities of interest" means groups
11 of residents who share similar interests, including, but not limited
12 to, social, cultural, ethnic, geographic, or economic interests, or
13 formal governmental or quasi-governmental relationships, but not
14 including relationships with political parties, incumbents, or
15 candidates.

16 (F) District boundary lines shall respect city boundaries, county
17 boundaries, and visible geographic boundaries to the extent
18 practicable.

19 (G) Districts of each type shall be numbered consecutively
20 commencing at the northern boundary of the State and ending at
21 the southern boundary of the State.

22 (H) Districts shall be reasonably geographically compact.

23 (I) The place of residence of incumbents or candidates may not
24 be considered in the creation of a map, except to comply with
25 another provision of this paragraph (2).

26 (3) Establishing and implementing ~~an open and noticed~~ a hearing
27 process for public input. The public hearing process shall include
28 at least the following three stages: (A) hearings to receive public
29 input before the commission draws any maps, (B) hearings
30 following the drawing and display of commission maps, and (C)
31 hearings following the drawing and display of the proposed final
32 maps. At stages (B) and (C), the commission shall display the map
33 or maps created for public comment, in a manner designed to
34 achieve the widest public dissemination reasonably possible. Public
35 comment shall be taken for at least 30 days from the date of public
36 display unless the commission determines that a comment period
37 of this duration is not practicable. The Senate, Assembly, Congress,
38 the State Board of Equalization, other officeholders, counties, and
39 cities may make recommendations on the record to the commission,
40 which shall be considered by the commission.

(c) The commission shall establish the boundaries of final maps for Senate, Assembly, congressional, and State Board of Equalization districts. Upon approval, the commission shall certify those districts to the Secretary of State. The final redistricting plan shall be subject to referendum in the same manner as a statute is subject to referendum under Section 9 of Article II. The date of certification to the Secretary of State shall be deemed the enactment date for purposes of Section 9 of Article II.

(d) The commission shall issue with its final maps a report regarding compliance with the criteria listed in paragraph (2) of subdivision (b) that explains the basis on which the commission made its decisions, particularly in cases where compliance with one criterion resulted in less than full compliance with another criterion. The commission shall include in its report definitions of the terms and standards used in drawing the maps.

SEC. 4. (a) ~~In 2010 and annually thereafter~~ *(1) In each year ending in the number zero, the Governor shall include, in the Governor's Budget submitted to the Legislature pursuant to Section 12 of Article IV, an amount of funding sufficient to meet the estimated expenses through June 30 of the next following year ending in the number two of the subsequent redistricting process occurring pursuant to this article. The necessary appropriation for this purpose shall be made in the annual budget act as a continuous appropriation that is available for expenditure during the entire two-year period.*

(2) For every fiscal year not subject to an appropriation made under paragraph (1), the Governor shall include, in the Governor's Budget submitted to the Legislature pursuant to Section 12 of Article IV, an amount of funding sufficient to meet for that fiscal year any additional estimated expenses of the redistricting process occurring pursuant to this article. The necessary appropriation for this purpose shall be made in the annual budget act.

(b) The commission has standing in legal actions regarding the final redistricting plan or regarding whether funds or other resources provided for the operation of the commission are adequate. The commission has sole authority to determine whether the Attorney General or legal counsel hired or selected by the commission shall represent the people of the State in the commission's legal defense of the final redistricting plan.

1 (c) (1) The Supreme Court has original and exclusive
2 jurisdiction in all proceedings in which the final redistricting plan
3 adopted by the commission is challenged.

4 (2) Any affected elector may file a petition for a writ of mandate
5 or writ of prohibition to challenge the final redistricting plan within
6 45 days after the commission has certified that plan to the Secretary
7 of State pursuant to subdivision (c) of Section 3, to bar the
8 Secretary of State from implementing the final redistricting plan
9 on the grounds that the filed plan violates this Constitution, the
10 United States Constitution, or any federal statute.

11 (3) The court shall act expeditiously on a petition filed under
12 paragraph (2). If the court determines that the final redistricting
13 plan adopted pursuant to this article violates this Constitution, the
14 United States Constitution, or any federal statute, the court shall
15 fashion the relief that it deems appropriate.

16 SEC. 5. (a) Members of the commission are eligible for
17 reimbursement of reasonable expenses incurred in connection with
18 the duties performed for the commission pursuant to law. For
19 purposes of the reimbursement of expenses, a commission
20 member's residence is deemed to be the member's post of duty.

21 (b) The commission shall not meet or incur expenses after a
22 final redistricting plan is approved and certified pursuant to
23 subdivision (c) of Section 3, except with respect to any pending
24 litigation or government approval concerning the final redistricting
25 plan, or to revise districts if required by court order or if the number
26 of Senate, Assembly, congressional, or State Board of Equalization
27 districts is changed, or if the final redistricting plan is rejected by
28 the electors pursuant to referendum.

29 ~~(c) For purposes of this article, "day" means a calendar day,~~
30 ~~except that if the final day of a period within which an act is to be~~
31 ~~performed is a Saturday, Sunday, or holiday, the period is extended~~
32 ~~to the next day that is not a Saturday, Sunday, or holiday.~~

33 SEC. 6. (a) If, in the final redistricting plan adopted pursuant
34 to this article, any census tract or census block is omitted, listed
35 more than once, not provided for, or only partially provided for,
36 the Secretary of State and the elections official of the affected
37 county, in order to define the location of the district boundaries,
38 shall use the maps prepared by the commission pursuant to
39 paragraph (2) of subdivision (b) of Section 3.

1 (b) District boundaries shall be defined so as to not omit any
2 area of the State from a district and to comply with the requirement
3 that districts be contiguous and reasonably equal in population
4 under the “one person, one vote” principle of the United States
5 Constitution.

6 Third—That in the event that this measure and another measure
7 or measures relating to the redistricting of Senate, Assembly,
8 congressional, or State Board of Equalization districts are approved
9 by a majority of the voters voting on those measures at the same
10 election, and this measure receives a greater number of affirmative
11 votes than the other measure or measures, this measure shall control
12 in its entirety and the other measure or measures shall be rendered
13 void and without any legal effect. If this measure is approved by
14 a majority of the voters but does not receive a greater number of
15 affirmative votes than the other measure or measures, this measure
16 shall take effect to the extent permitted by law.